IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 96 of 2005

Between:

M.A. Shakeel, S/o. M.A. Rahim,
H.No. 5-8-46/A, Fateh Sultan Lane, Chirag Ali Lane, Station Road, Hyderabad.

..... PETITIONER

AND

1 The State of A.P., rep. by Prl. Secretary, Revenue (A&R) Dept.,

Secretariat, Hyderabad.
2 The Registrar, Special Court under A.P.L.G. (P) Act, IInd Floor, BRKR

Bhavan, Hyderabad.
3 Jetti Krishna Murthy, Judicial Member, Special Court under

A.P.L.G.(P) Act, IInd Floor, BRKR Bhavan, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of Mandamus declaring G.O.Rt.No.1989 Revenue (A&R) Dept., dt. 10.12.2004 extending the term of the 3rd respondent as being contrary to sub-section-4, 4A of Section 7 of the A.P. Land Grabbing (P) Act of 1982.

Counsel for the Petitioner:MR.S.A.K.MYNUDDIN

Counsel for the Respondent No.1 and 2: GP FOR Assignment

Counsel for the Respondent No.3: None appeared.

The Court at the admission stage made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

We do not find any force in this petition where challenge has been made to G.O.Rt.No.1989, Revenue (A&R) Department Dated 10th December, 2004 extending the tenure of the respondent No.3 as Judicial Member of Special Court under A.P. Land Grabbing (Prohibition) Act, 1982 (for short "the Act") for a period of two years from 27th December, 2004. Learned counsel for the petitioner submits that extending the period of Judicial Member for another two years is in violation of the provisions of sub-Section (4-A) of Section 7 of the Act. Learned counsel for the petitioner has referred to the decision of the Supreme Court in DURGADAS PURKYASTHA vs UNION OF INDIA AND OTHERS [2002 (5) SUPREME TODAY 64].

We have gone through the provisions of the Act. Section 7 of the Act deals with the constitution of Special Courts for the purpose of providing speedy enquiry into any alleged act of land grabbing and trial of cases in respect of ownership and title to or unlawful possession of land grabbed. It consists of a Chairman and four other members to be appointed by the Government. The Chairman has to be a person who has been a Judge of High Court and out of the other four members, two should be who are or have been District Judges as Judicial Members and the remaining two should be such persons who hold or have held a post not below the rank of District Collector. Sub-section (4) enables the Government to reconstitute the Special Court constituted under sub-Section (1) and also empowers the Government to abolish such Special Court. Sub-section (4-A) provides that Chairman or other member shall hold office for a term of two years from the date on which he enters upon office or until the Special Court is reconstituted or abolished under sub-Section (4), which ever is earlier. Learned counsel submits that once the term of two years is

over, there is no power to extend the term or reappoint the same person. The Special Court has to go as a whole and has to be reconstituted as a team. This submission in our view is contrary to the scheme of the Act. There is no prohibition in the Act to make reappointment of a Chairman or a Member of the Special Court once his term is over. Power vests in the Government to reconstitute the Special Court. Reconstitution implies within it the power to reappoint unless there is prohibition or any age bar like the Administrative Tribunals Act where there is outer limit for the Chairman and Members to continue as such and for that reason, the decision relied upon in DURGADAS PURKYASTHA (supra) has no relevance. There is age bar beyond which a Chairman or a Member cannot continue to be a Chairman and Member of the Administrative Tribunal. There is no such bar in so far as the Special Court is concerned.

Petition dismissed.

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DEVINDER GUPTA, CJ

7-2-2005

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M.NARAYANA REDDY, J

tvr

To

1 The State of A.P., rep. by Prl. Secretary, Revenue (A&R) Dept.,

Secretariat, Hyderabad.
2 The Registrar, Special Court under A.P.L.G. (P) Act, IInd Floor, BRKR

Bhavan, Hyderabad.
3 2 CCs to the Govt. Pleader for Assignments, High Court Buildings,

Hyderabad (OUT).

4 2 CD copies.